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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC.,

Plaintiff,

v.

JEREMI FISHER, ET AL.,

Defendants.

Case No.: C 09-05842 JF (PVT)

**ORDER GRANTING PLAINTIFF
FACEBOOK'S ADMINISTRATIVE
REQUEST FOR LEAVE TO CONDUCT
DISCOVERY PRIOR TO RULE 26
CONFERENCE**

[Docket No. 53]

17 Pursuant to Local Rule 7-11, plaintiff Facebook, Inc. moves for leave to conduct discovery
18 prior to the Rule 26 conference. ("plaintiff" or "Facebook"). Specifically, plaintiff Facebook moves
19 to authorize issuance of a subpoena to take possession of an abandoned computer laptop previously
20 owned by defendants Porembski and PP Web Services as well as police reports and witness
21 statements related to the recovery of the computer laptop.

22 Defendants had previously stipulated to injunctive relief. *See, e.g.*, Stipulated Order and
23 Preliminary Injunction entered on January 6, 2010 (by plaintiff and defendants Jeremi Fisher and
24 Choko Systems LLC) (Docket No. 29); Stipulated Order and Preliminary Injunction entered on
25 January 6, 2010 (by plaintiff and defendants Ryan Shimeall and iMedia Online Services LLC)
26 (Docket No. 30); and Stipulated Order and Preliminary Injunction entered on January 8, 2010 (by
27 plaintiff and defendants Philip Porembski and PP Web Services LLC) (Docket No. 33). However,
28 defendants failed to answer, or otherwise respond to, the operative complaint and plaintiff Facebook

1 later obtained default against the defendants. Clerk's Notice of Entry of Default dated April 26,
2 2010 (as to all defendants) (Docket No. 51). In addition, defendants have not opposed, or otherwise
3 responded to, this motion.

4 Having reviewed the papers and considered the arguments of counsel,

5 IT IS HEREBY ORDERED that plaintiff Facebook's motion for leave to conduct discovery
6 prior to the Rule 26 conference is granted.

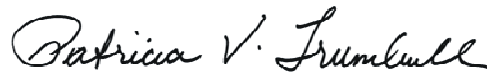
7 Here, plaintiff Facebook has shown good cause to conduct discovery prior to the Rule 26
8 conference. The need for the expedited discovery outweighs any prejudice to defendants. As an
9 initial matter, the clerk entered default against all the defendants in the above-captioned action after
10 they failed to answer, or otherwise respond to, the operative complaint. And the laptop computer
11 was allegedly abandoned by defendants Porembski and PP Web Services LLC. Finally, plaintiff
12 Facebook served this motion on all defendants and no response has been filed whatsoever.

13 Pursuant to Rules 34 and 45, plaintiff Facebook may engage an independent third party to
14 make a mirror image of the hard drive of the laptop computer (either on-site at the Sacramento
15 Sheriff's Department or at the offices the independent third party) and promptly return the original
16 laptop computer to the custody of the Sacramento Sheriff's Department. Fed. R. Civ. P. 34 (request
17 to inspect or copy electronically stored information). The independent third party may then provide
18 the mirror image of the hard drive of the laptop computer to plaintiff Facebook.

19 Plaintiff Facebook may also conduct other third-party discovery, including issuing a
20 subpoena for police reports and witness statements related to the recovery of the aforementioned
21 laptop computer and conducting a deposition of the witness who located the abandoned laptop
22 computer.

23 IT IS SO ORDERED.

24 Dated: June 14, 2010

25 
26 PATRICIA V. TRUMBULL
27 United States Magistrate Judge
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